

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 ***

4
5 FEDERAL TRADE COMMISSION,

6 Plaintiff,

7 vs.

8 AMG SERVICES, INC.,

9 Defendant.
10

2:12-cv-00536-GMN-VCF

REPORT AND RECOMMENDATION
REGARDING REQUEST BY DEFENDANTS
RED CEDAR SERVICES, INC. AND SFS,
INC. FOR SETTLEMENT CONFERENCE
(#812)

11 Defendants' request for settlement conference was filed on June 11, 2015. On June 16, 2015,
12 Chief Judge Navarro granted the request and referred coordination of the settlement conference to the
13 undersigned Magistrate Judge (#818). A hearing was held on July 20, 2015, attended by counsel for
14 plaintiff and the three groups of defendants. Nikhil Singhvi appeared for the Federal Trade Commission.
15 Joshua Dickey, Francis Nyhan and Nichole Ducheneaux appeared for Red Cedar Services, Inc. and SFS,
16 Inc.. Nicole Lovelock appeared for Park 269 and Kim Tucker. Von Heinz, Nick Kurt and Jeffrey Morris
17 appeared for the balance of the defendants who have not settled in this case, collectively referred to as,
18 "the Tucker Defendants."

19 During the hearing all parties confirmed that they were interested in participating in a court
20 mediated settlement conference at this time. As confirmed by all parties, it is contemplated that a
21 settlement agreement disposing of remaining claims would include monetary relief, some
22 conduct/injunctive provisions, and a number of standard "non-monetary" provisions required by the FTC
23 in cases it settles. The parties are familiar with these non-monetary provisions through their participation
24 in settlement discussions which led to the settlement of causes of action against other defendants. The
25 parties acknowledged that any settlement reached at the proposed conference would be subject to approval

1 by Plaintiff's Commissioners. FTC management, appearing by telephone at the proposed conference, and
2 FTC counsel would commit to advocating for the Commission's approval of agreements reached during
3 the proposed conference.

4 The main issues to be addressed during the settlement discussions with be liability of individual
5 defendants based on participation or knowledge, application of the common enterprise doctrine to
6 establish liability and the nature of payments made to the relief defendants. In addition, defense counsel
7 will be presenting arguments that the value of the claims against their clients should be adjusted
8 downward, given the risk of reversal on appeal of certain decisions by this court.

9 Discovery in this case is not completed. Four discovery motions are pending and the parties are
10 addressing the timing and scope of witness depositions in light of ongoing criminal proceedings targeting
11 Scott Tucker in the Southern District of New York. Given the history of the undersigned Magistrate
12 Judge's involvement in pretrial motions in this case, the existence of substantial discovery issues which
13 remain to be addressed if the case does not settle, and the fairly well defined set of issues to be addressed
14 during settlement negotiations, judicial efficiency will be best served if the undersigned Magistrate Judge
15 remains assigned to handle referred pretrial matters and another Magistrate Judge undertakes the
16 assignment of mediating the requested settlement conference.

17 Accordingly, IT IS HEREBY RECOMMENDED that the responsibility of conducting the
18 proposed settlement conference be assigned to a Magistrate Judge other than the undersigned, and that the
19 undersigned Magistrate Judge remain assigned for referral of pretrial matters to be addressed if this case
20 does not settle disposing of all claims against all parties.

21 DATED this 21st day of July, 2015.

22
23 

24 CAM FERENBACH
25 UNITED STATES MAGISTRATE JUDGE